

2012

Ethics Newsletter with updates and Guidance for Political Action Committees, Ballot Question Committees and State Party Committees. 2012 Pre-General Election Edition

Maine Commission on Governmental Ethics and Election Practices

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ETHICS COMMISSION NEWSLETTER AND FILING REMINDER FOR PACs, BQCs AND STATE PARTY COMMITTEES

2012 Pre-General Election Edition

Upcoming Campaign Finance Reports

11-Day Pre-General Report: *due October 26.*

42-Day Post-General Report: *due December 18.*

January Quarterly Report: *due January 15, 2013.*

These reports are required, regardless of activity, for all entities.

Reports must be filed online at www.mainecampaignfinance.com.

Maine Commission on Governmental Ethics
and Election Practices

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Ethics Newsletter

With Updates and Guidance for Political Action Committees, Ballot Question
Committees and State Party Committees

2012 Pre-General Election Edition

September 25, 2012

The campaign season is entering the final push towards the November 6 general election. As committees prepare to support their candidates and initiatives, the Ethics Commission staff would like to offer the following reminders and guidance. If you have questions that are not answered by this newsletter, or you would like further clarification about anything within these pages, please call us at (207) 287-4179. You may also email Matt Marett at Matthew.Marett@Maine.gov.

What's in this Newsletter

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- **Upcoming Campaign Finance Reports**
 - 11-Day Pre-General—due October 26
 - 42-Day Post-General—due December 18
 - January Quarterly—due January 15, 2013

Dates to Remember

Presumption Period Begins October 2

Paid communications that clearly identify an MCEA candidate are presumed to contain express advocacy if they are made from October 2 through election day. NOTE: communications that clearly identify a candidate and contain express advocacy (actual or presumed) require an attribution statement and may require an independent expenditure report. See below for more information.

1 and 2 day IE reporting

Within 60 days of an election the timing for reporting independent expenditures changes. Use this filing schedule to make sure your reports are filed on time.

Expenditure Date	Expenditure Amount	Report Due Date
9/7 — 10/23	Over \$100 but not over \$250	11-Day Pre-Election report due 10/26
9/7 —10/23	Over \$250	Within 2 calendar days of expenditure
10/24 — 11/5	Over \$100	Within 1 calendar day of expenditure

Additional IE schedule required starting October 30

For all IE reports that are filed starting October 30 through election day, schedule B-IE-3 must be completed. This schedule allows you to further explain the circumstances of the expenditure.

Independent Expenditure Reports

What is an Independent Expenditure?

An independent expenditure ("I.E.") is any expenditure made by any person—including PACs, BQCs, and Party

Committees—for any communication that expressly advocates for the election or defeat of a clearly identified candidate, and which is NOT made in cooperation, consultation or in concert with the candidate. There are several elements to an IE. It must:

1. **Be a communication**
Anything that communicates a message to voters, including mailings, signs, radio and television ads.
2. **Clearly identify a candidate**
Either by name, photograph or unambiguous reference. NOTE: because the communication must identify a *candidate*, IE reports are not required for communications concerning ballot measures.
3. **Contain express advocacy**
Through phrases such as “vote for” or “elect,” or through language that is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate.
4. **Be independent of the candidate**
Expenditures for communications that are made in cooperation, consultation, or in concert with a candidate are not independent of the candidate. Coordinated expenditures may be contributions to a candidate. Call the Commission staff or check out the staff’s IE guidance online for more information.

How do I file and Independent Expenditure Report?
While many expenditures may qualify as independent, only those expenditures where more than \$100 per candidate was spent require a report. Blank reports may be found on the Commission’s website at www.maine.gov/ethics/others/index.htm.

To complete a report, identify all expenditures that were affiliated with the communication. Expenditures for multiple communications may be listed on the same report. Reports must also include the names of the candidates who were identified in the communication and whether the communication supported or opposed them.

IE reports must be signed and notarized before being

submitted to the Commission. *Reports cannot be filed electronically.* They must be submitted in person, by mail or by fax according to the schedule below. If a report is submitted by fax, the original report must be delivered to the Commission within 5 business days. The Commission’s mailing address is:135 State House Station, Augusta, ME 04333

Independent Expenditure Reporting Rule Changes
The Commission recently adopted changes to its IE reporting schedule which became effective in September. (Rules, Chapter 1, Section 10). Under the new rules, the quarterly IE reports are replaced with a single 60 day pre election IE report that will encompass all IE’s that are made up through the 61st day before an election. The schedule for reporting IE’s over \$100 and over \$250 during the 60 days before an election has not changed.

Independent Expenditure filing schedule		
Expenditure Date	Expenditure Amount	Report Due Date
9/7 — 10/23	Over \$100 but not over \$250	11-Day Pre-Election report due 10/26
9/7 —10/23	Over \$250	Within 2 calendar days of expenditure
10/24 — 11/5	Over \$100	Within 1 calendar day of expenditure

Expenditures must be reported at the earliest of the following:

1. The placement of an order,
2. The signing of a contract,
3. The delivery of a good or performance of a vendor,
4. A promise or agreement that payment will be made, or
5. The making of a payment.

NOTE: Expenditures may need to be reported multiple times. For example, if you obligate yourself to pay for a mailing in June that won’t be sent until October, the expenditure would be reported as an unpaid obligation on the post-primary report. The expenditure would be reported again as an IE in October once the mailing was finalized and payment made.

Frequently Asked Questions about IE’s
Q: Is the \$100 threshold a per expenditure amount or an aggregate amount?
A: It’s an aggregate amount.

Q: If there are several expenditures involved with my communication, when is the report triggered?
A: The report is triggered when, in the aggregate, the \$100 threshold is exceeded.

Q: Do the expenditures I disclose on an IE report also need to be reported on the next campaign finance report?
A: Yes. Everything that gets reported on both IE’s and 24 hour reports must also be included on the next campaign finance report.

Q: What happens to my report once it is filed?
A: It is reviewed and then posted on our website at www.maine.gov/ethics/disclosures/candidates. If possible, we try to post reports on the same day they are received.

24 Hour Reports
24 Hour reports are required when a committee makes a single expenditure of \$500 or more after the 14th day before the election. In other words, if a committee spends \$500 or more on any one expense from October 24th through election day, a 24 hour report is required.

The only exception is when an expenditure, which would otherwise be reportable in a 24 hour report, is reportable on an independent expenditure report. In that case, no 24 hour report is required because the public is made aware of the expenditure through the IE report.

24 hour reports may be filed online by visiting www.mainecampaignfinance.com.

How are 24 Hour Reports Different From IE Reports?
24 Hour reports are for any single expenditure of \$500 or more, regardless of purpose. IE’s must be filed only when *an uncoordinated communication clearly identifies a candidate and contains express advocacy* (see above for exceptions).

- For example: \$500 for rent triggers a 24 hour report but not an IE report.

24 Hour reports are only required when any single expenditure during the reporting period is \$500 or more. IE reports are required when, *in the aggregate*, expenditures exceed \$100.

Common Reporting Mistakes
Misreporting of reimbursements
To report a reimbursement, name the vendor as the payee, not the individual who was reimbursed. The reimbursed individual should be identified in the remarks section. For example, if John was reimbursed by a PAC for the purchase of stamps, the payee would be the US Postal Service, not John. The remarks section, however, would note “reimbursement to John for stamps.”

Include occupation and employer information for contributors
A number of committees are forgetting to include occupation and employer information for contributors. This information is required for contributors who give over the following amounts:

- \$50 for PACs
- \$100 for BQCs
- \$200 for Party Committees

Schedule B versus B-1
Schedule B is reserved for expenditures that are intended to initiate or influence a campaign. All other expenditures should be included on schedule B-1. Examples include the following:

Schedule B	Schedule B-1
Contributions	Rent
Mailers to support an initiative	Bank Fees
Newspaper advertisements	Salary and related payments

For further clarification, call the Commission staff at (207) 287-4179, or email Matt at Matthew.Marett@Maine.gov